Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of:	)	
Policies and Rules Implementing	)	CC Docket No. 93-22
the Telephone Disclosure and	)	RM-7990
Dispute Resolution Act	)	

COMMENTS ON PETITIONS FOR WAIVER
AND
PETITION FOR LIMITED EXTENSION OF COMPLIANCE DATES
TO MATCH ANY EXTENSION GRANTED TO INTEREXCHANGE CARRIERS

The United States Telephone Association (USTA) respectfully submits these comments on the various petitions that have been filed with the Commission for partial or temporary, limited waivers of the compliance dates or compliance requirements related to the Commission's recently adopted rules in this proceeding, i.e., provisions set out at 47 CFR 64.1510(a)(2)(i) and (ii) and 47 CFR 64.1510(a)(2)(b). It is USTA's understanding that there are about a half-dozen such petitions that will have been filed as of the close of business today. USTA also files this petition for an extension of the compliance dates related to Section 64.1510 of those rules to the extent exchange carriers may need it. Only a small part of overall implementation will be affected. USTA requests immediate consideration of these comments and the related petition.

Under Section 64.1509(a)(i) through (iv) of the Commission's Rules, any common carrier assigning a telephone number to a provider of interstate pay-per-call (interstate 900 service) AND offering billing and collection services to such provider shall provide

to all its telephone subscriber annual disclosure statements no later than 60 days after the rules take effect (or by November 23, 1993.)

Under Section 64.1510(a)(2)(i) through (iii), as of November 1, 1993, the same common carrier (providing both a number and billing/collection services) shall, in any monthly billing to telephone subscribers that includes charges for any interstate 900 service, include a disclosure statement with four items on it: that such charges are for non-communications services; that neither local nor long distance services can be disconnected for non-payment; that 900 number blocking is available upon request; and that access to pay-per-call services may be involuntarily blocked for failure to pay legitimate charges.

Finally, under Section 64.1510(a)(2)(ii), as of November 1, 1993, that carrier must segregate the interstate 900 service charges from any other service charges for billing purposes, and under Section 64.1510(a)(2)(iii), must itemize the type of 900 service, the amount of the charge, the duration of the call (where the call is time-billed), and the date and time of the calls billed.

The Commission's rules adopted in the Report and Order also included a new Section 64.1510(b). That section applies to common carriers that offer billing and collection services to an entity offering interstate information services pursuant to a presubscription or comparable arrangement, or for interstate tariffed collect information

services. To the extent possible, these carriers are expected to display their billing information in the manner set out in Section 64.1502(a)(2)(i) and (ii). This section also affects exchange carriers.

The Commission has specifically identified the carriers subject to Section 64.1510(a). Those carriers are interexchange carriers, not local exchange carriers. See Report and Order at ¶ 14, note 27. However, they are expected to obtain conforming actions by exchange carriers. Nothing in the literal wording of the rules expressly directs local exchange carriers to perform any act unilaterally. Rather, the Report and Order anticipates that it is the interexchange carriers dealing with 900 pay-per-call providers who must take primary responsibility for compliance. As a practical matter, however, USTA has always expected that local exchange carriers who bill and collect for these interexchange carriers would play a role in assuring the new statute and rules are implemented.

Through hard work and factors that tended to be unique to them, many of the small companies with whom USTA has dealt appear ready to comply with all parts of the Rules.[1] This compliance has been costly and time-consuming. However, other

[1]The Commission should be aware of USTA's direct involvement in assisting its members in this regard. On August 13, 1993, the Commission released its Report and Order. Some of the Commission's rule provisions were to become effective 30 days after the publication of the Report and Order in the Federal Register. The requirements pertaining to billing were to become effective on November 1, 1993. USTA had been an active participant in both the Commission and the Federal Trade Commission's companion proceeding to implement the new statute, and USTA was already working on

small companies and a number of larger companies have faced problems in compliance. There are significant and unavoidable events and factors that have prevented or interfered with their ability to comply.

The Commission's Report and Order was extensive, running 44 pages and 109 paragraphs. The rules themselves contained 15 separate sections. In addition, the Commission made clear that it was leaving it up to the affected carriers to coordinate their compliance obligations with the compliance obligations of the contemporaneously-adopted Federal Trade Commission rules. See Report and Order at ¶ 73. The problems that have surfaced in the last few weeks are focused on only a few parts of the Commission's new Part 64 rules.

One of the themes that recurred in USTA's Bulletin was that implementation would require extensive coordination of local exchange carriers with interexchange carriers.

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a member Bulletin to identify the nature of the new Federal Trade Commission rules at the time the Commission acted. USTA expanded its already lengthy Bulletin to address this Commission's new rules, and expedited delivery to members on August 23, 1993. Because it took about two weeks for the Commission itself to publish the Report and Order in the Federal Register, USTA's Bulletin was mailed before the effective date actually was set for some of the Commission's rules, because some parts of the rules' effective date was dependent on the Federal Register date. USTA already had decided that compliance would be difficult within the time available to carriers, and that it could not wait for Federal Register publication. USTA's Bulletin was followed up with two announcements in the USTA President's Report clarifying the effective dates of the rules after they were fixed. Commission staff was provided with both draft and final copies of the USTA Bulletin.

During the past eight weeks, USTA has received literally hundreds of calls from members concerning its Bulletin. Accommodating this heavy volume of inquiries has consumed a significant percentage of the working time of two of USTA's three counsel, as well as the time of other USTA staff. These calls began immediately after USTA's Bulletin was sent out. Many companies, and their consultants and counsel, sought clarification on issues related to compliance. This included interpretation of the rules, suggestions as to options, and requests for feedback as to Commission intent. Many did not have access to the Commission and the Federal Trade Commission documents (the latter's statement and rules ran over 200 pages) and they asked USTA for copies. Many just sought help. Having found during the pendency of the recent BNA stay request that it was not helpful for USTA to screen the Commission from the difficulties experienced with implementation of Commission orders, USTA also suggested to members with bona fide concerns about compliance that they contact Commission staff directly.

One fact that USTA has found significant in dealing with USTA members is that, except for late correspondence from AT&T, no other interexchange carrier appears to have undertaken to discuss with the exchange carriers calling USTA the nature of their compliance with the new rules. Thus, while the interexchange carriers are primarily responsible for identifying with the exchange carriers how compliance should be achieved, only AT&T among the interexchange carriers carrying 900 calls appears to

have begun significant work with all the exchange carriers to do what the rules expect.[2]

USTA has gone so far as to suggest to its member local exchange carriers that they determine independently what they could do to comply most efficiently with the rules, and then go to all the interexchange carriers with whom they have billing and collection agreements to attempt to obtain a summary affirmative response, so that compliance would be achieved as of the effective date of the rules.[3]

This does not seem to have avoided all problems. For example, AT&T's recent instructions to exchange carriers expect an "AT&T-specific" disclosure with respect to the calls it carries. This would lead inevitably to multiple disclosures in a single exchange carrier's bill when pay-per-call charges are incurred with more than one interexchange carrier. There would be additional mailing weight and postage, and much higher costs for a redundant statement. The rules themselves, however, do not anticipate multiple disclosures. The rules anticipate only a single disclosure in any billing that includes a charge for pay-per-call services. See Section 64.1510(a)(2). Likewise, it is still problematic for exchange carriers to work out the details of grouping 900 calls from

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[2]USTA does not object to any waiver for any or all of the interexchange carriers, so long as exchange carriers are afforded the same relief.

[3]USTA did so because there was some risk that multiple interexchange carriers might seek last minute billing and collection changes that would be unable to be accommodated, or that each interexchange carrier would seek specific arrangements that together were incompatible, and thus impossible for exchange carriers to implement, or that would be unusually costly.

multiple providers separately. It appears that it will be difficult, if not impossible, for many carriers to do this at all in absolute terms by November 1, and it also will be difficult to obtain agreement from interexchange carriers if the calls for all carriers must be grouped on one page.

Some of the difficulties and hurdles faced by USTA members can be summarized as follows:

o USTA has already outlined the fact that, except for AT&T, it appears that the interexchange carriers generally have not initiated contact with the exchange carriers about compliance, although it is the interexchange carriers who are responsible in the first instance for compliance with respect to the 900 calls they carry. The exchange carriers should not be held to a standard that is stricter than the standard applicable to those to whom they must respond.

o Notwithstanding the fact that the statute was passed in 1992, the carriers had to await the Commission's rules to determine the nature of compliance on call separation, details of disclosure, bill structure and other items. There was no way to prepare in advance for this. In addition, they had to await the rules of the Federal Trade Commission to coordinate action. Even knowing that the statute would require some changes did not make it prudent to make those software changes in isolation. No one could have anticipated the full set of requirements.

o In practice, any major change to existing billing systems requires extensive software modifications. This in turn involves software development, systems coding, and process changes. These changes can be extensive and complex, depending on the type of vendor and their working relations with the exchange carrier. Furthermore, development of new billing formats needs to be thoroughly tested to avoid errors.

o Many USTA members do not perform their own billing system programming, and must rely on third parties to perform such changes. Due to the short time frame involved (eight weeks from Federal Register publication to effective date), it simply has not been possible for many third-party vendors to provide the exchange carriers with the new programming of billing format changes to comply with the new rules. Many of them are involved in programming for other entities, or new programming of CABS billing and other changes also required or anticipated by the Commission. It was difficult to define the detail of what had to be done in the absence of either interexchange carrier direction or concurrence. These third party billing entities are not subject to the jurisdiction of the Commission. (Indeed, the Commission's rules in this area show its lack of authority over non-carriers who may do billing and collection for the interexchange carriers' pay-per-call charges. See Section 64.1502(b).)

The exchange carriers should not be held responsible for what appears to be the result of a lack of an industry coordination mechanism to deal with the new comprehensive statutory requirements in a short period of time. Today's competitive marketplace does not easily accommodate short term compliance directives across the industry, particularly in an area such as this, which is novel and interdisciplinary. The rules of the Commission and the Federal Trade Commission not only require extensive 900 provider, interexchange carrier and carrier providing billing and collection interaction, but also challenge the carriers to come up with new customized solutions in a short time period that often has demanded fundamental change to the carriers' business operations and billing statements. Given the circumstances, the date chosen for compliance was well-intentioned but simply too ambitious.

Interim relief should be granted to carriers, provided they move forward with reasonable diligence to meet the objective of the rules. Further, there should be relief from the requirements of Section 64.1510 that are currently on reconsideration. See Petition for Reconsideration of MCI Communications Corporation. See also Petition for Reconsideration of U S WEST.

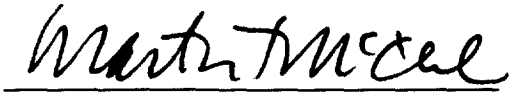
As a matter of equity and service to the public interest, the Commission should focus on how quickly it intends to assure compliance from the interexchange carriers, and then give to all exchange carriers the same time for compliance. To the extent that the exchange carriers depend upon the interexchange carriers for affirmative action, they

should not be made subject to requirements that are more severe than those carriers who face the fundamental compliance requirements. USTA therefore asks for a limited extension of the compliance dates anticipated for Section 64.1510(a) and (b), to match any extension granted to interexchange carriers.

Prompt action would serve the public interest.

Respectfully submitted,

UNITED STATES TELEPHONE ASSOCIATION

By: 

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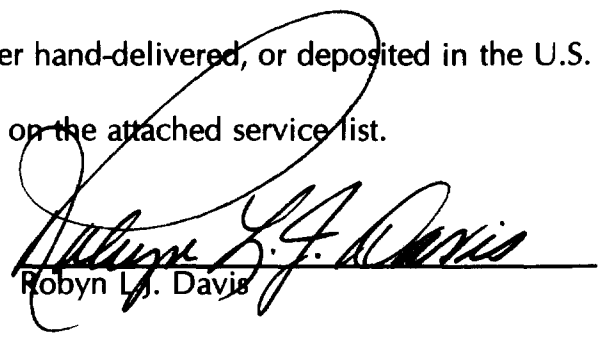
October 25, 1993

CERTIFICATE OF SERVICE

I, Robyn L.J. Davis, do certify that on October 23, 1993 copies of the Comments on Petitions for Waiver and Petition for Limited Extension of Compliance Dates of the United States Telephone Association were either hand-delivered, or deposited in the U.S. Mail, first-class, postage prepaid to the persons on the attached service list.



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